



PRELIMINARY DRAFT
No. 3137

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2010 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 5-10.2-3-7.5; IC 5-10.3-8-15; IC 5-10.4-4-10.

Synopsis: Designation of beneficiaries under PERF and TRF. Authorizes the public employees' retirement fund (PERF) and the Indiana state teachers' retirement fund (TRF) to adopt rules to allow a member that designates more than one beneficiary to allocate benefit shares in percentage increments. Makes a technical correction to resolve conflicting language.

Effective: July 1, 2010.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.113-2009, SECTION 1, AND AS AMENDED BY P.L.115-2009, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) *This subsection applies to members who die after March 31, 1990, and before January 1, 2007.* A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

~~(1) the member dies after March 31, 1990;~~

~~(2)~~ (1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

~~(3)~~ (2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d).

(b) *This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:*

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or



(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

~~(b)~~ (c) If a member described in subsection (a) or (b) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly *pension* benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

~~(c)~~ (d) If a member described in subsection (a) or (b) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly *pension* benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly *pension* benefit to be paid to each dependent. Monthly *pension* benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly *pension* benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

~~(d)~~ (e) This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member. Except as provided in subsections ~~(e)~~ (f) and ~~(h)~~ (i), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an



amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter to the extent of the lump sum payment.

~~(e)~~ (f) If a member *described in subsection (a) or (b) or section 7.6(a) of this chapter* is survived by a designated beneficiary, *who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (e) or (d) or section 7.6 of this chapter*, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account **unless the member has allocated the shares among the designated beneficiaries in a manner authorized under IC 5-10.3-8-15 or IC 10-10.4-4-10**, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

~~(f)~~ (g) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection ~~(e)~~ (f);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

~~(g)~~ (h) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

~~(h)~~ (i) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or



(2) the member's estate, if there is no surviving designated beneficiary.

~~(j)~~ (j) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

~~(k)~~ (k) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.3-8-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15. The board may adopt rules to allow a member that designates more than one (1) beneficiary to allocate benefit shares in percentage increments.**

SECTION 3. IC 5-10.4-4-10, AS AMENDED BY P.L.115-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The director shall obtain a designation of beneficiary as soon as possible from each member.

(b) The board may adopt rules to allow a member who designates more than one (1) beneficiary to allocate benefit shares in percentage increments.

~~(b)~~ (c) Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article vests with the designated beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.

